

much more carefully as a result of market discipline. Products which have proven to be unfit for certain borrowers such as low-doc loans, short-term hybrid ARMS, interest-only products, those are becoming increasingly hard to find. Those have been pushed out of the market. But the legislation before us today ignores such advances. Not only does this bill fail to account for the progress made in the market, it has the potential to seriously restrict access to credit for millions of Americans looking to purchase a home or refinance their mortgage.

In its present form, a borrower will have the ability to recover all of the principal and interest paid over the entire history of the loan as long as he can convince a court that he didn't have a reasonable ability to pay, as I said. At the time the loan was originated, again, it is not hard to imagine how language such as this is going to be abused and run up the costs of home mortgages for everyone.

Mr. FRANK of Massachusetts. I yield 3 minutes to another Member who had a great input into this, the Chair of the Housing Subcommittee of our committee, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Thank you, Mr. Chairman. I would like to thank you and MEL WATT, Mr. BACHUS and Mr. MILLER and others who have worked so hard on this bill. It is a very complicated issue. You have done a spectacular job.

I rise in support of the Mortgage Reform and Anti-Predatory Act of 2007. Each month brings figures, new figures, that reinforce the importance of putting in place a Federal legislative and regulatory framework that prevents us from reliving this crisis in the mortgage markets. I have a keen interest in this legislation because of the disproportionate impact of the foreclosure wave on my home State. California's third quarter foreclosure rate of one foreclosure filing for every 88 households ranked second highest in all States and reflects a near quadrupling of the number reported for the same period last year. Five of the top 10 metropolitan areas in foreclosure filings are in California.

Clearly, we need to prevent the now widespread practice of getting people into loans they simply can't afford. H.R. 3915 takes critical steps in this respect, including, for the first time, imposing a Federal duty of care on all mortgage originators and setting minimum Federal standards on all mortgages. Anchoring the bill's approach are newly established minimum standards regarding the borrower's ability to repay and net tangible benefit to the consumer. This is a sound strategy given that federally regulated mortgage originators have long had to meet similar benchmarks, and not coincidentally, we have seen few problems in that sector of the market.

H.R. 3915 also seeks to reduce the incentives to market inappropriate credit products to borrowers. I am particu-

larly pleased that H.R. 3915, again for the first time, removes the most destructive of such incentives, severing the link between the compensation of the originator and the terms of the loan. Minority borrowers have been disproportionately steered to costly loans, in part because the fees such loans generate for originators are higher than more appropriate products. H.R. 3915 correctly prohibits this practice outright.

I am proud to have been an operational cosponsor of this very ambitious legislation, and I urge my colleagues to support this passage today. However, I would not be telling the truth if I said I lacked any concerns about the potential impact of our ambition over time. Mr. Chairman, I certainly want to thank you, Ranking Member BACHUS, Mr. WATT and others for your diligent work in the manager's amendment to address one such concern that I raised during the Financial Services Committee markup of the bill, namely, the extent to which the assignee liability and remedies this bill creates should preempt State law.

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We want to make sure that consumers are protected to the greatest extent possible. Historically, many of these protections have been initiated by States, especially in the subprime market.

With that, I would like to conclude. I would like to be clear that this groundbreaking bill should be passed today, and I urge my colleagues to vote for H.R. 3915.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), who rises in opposition to the bill.

Mr. HENSARLING. I thank the gentleman for yielding.

Mr. Chairman, I do rise in opposition to what I conclude to be a bad bill for homeowners in America. I do want to acknowledge, though, the efforts of the ranking member to take a bad bill and turn it into a less bad bill. There is no doubt that this Nation faces a great challenge in the subprime market, no doubt about it at all. I am convinced, though, that this piece of legislation is going to make it worse, make the situation worse, and not make it better.

The first thing we need to remember as legislators is first do no harm. What should Congress do to make sure this doesn't happen again? Clearly, there has to be enforcement. There's no doubt that fraud has taken place within the subprime market. But we also need effective disclosure so that consumers know the types of transactions in which they are entering. We need greater financial literacy. I agree, yes, that there must be mortgage broker registration. But what Congress should not do is essentially outlaw the American Dream for many struggling families who may be of low income, who may have checkered credit pasts. By bootstrapping more, more mortgage

transactions into the HOEPA standard, that is what this bill does.

Also, by having assignee liability with all these amorphous legal doctrines and phrases that no one understands, you will drive investment away from the secondary market at exactly the time when it is needed more. As the market has perhaps even overcorrected, we need more liquidity. This bill takes us to less liquidity.

I heard from one of my constituents recently from Forney, Texas, a lady by the name of Connie Taylor. She wrote me and said: "If it hadn't been for subprime lending, I wouldn't have my house now. My credit was destroyed because of divorce. I worked hard for 5 years to clean up that credit."

Mr. Chairman, we shouldn't take away homeowner opportunity from Ms. Taylor in Forney, Texas, and all the other millions of people who may have checkered credit pasts. Because of that, I urge that we defeat this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to another member of the committee, the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, this is an important and urgent and critical bill. All across this Nation, families are struggling and suffering. In my own district of Georgia and in one of my major counties, which is Clayton County, which is one of the leading counties that has had over a 200 percent increase in foreclosures of homes, they have lost over \$158 million in terms of their home equity.

Now, Mr. Chairman, the speaker just spoke a moment ago about one of the major features of this bill, and that is trying to grapple with assigning liability. I want to just make sure that everybody understands what we are talking about, because we are going to have that debate. Just what is an assignee? An assignee is a mortgage broker or lender, any loan originator that makes these loans but they don't keep them. They repackage these loans. They often are loans that are delivered to the secondary market to a group of investors and these are parties that own an interest in the loan as it flows through the investment process, and they are known as assignees.

Since these loan originators don't keep the loans they make, they often deliver what the secondary market will buy, with little regard for whether the homeowners can make their payments or afford these loans. Unfortunately, many of them get into these loans on what is known as "teaser rates." They put forward a loan at a very low rate but, unbeknownst to the homeowner, in a short period of time the payment balloons out of kilter and the homeowner cannot afford it. Some people say this is not by design. But in so many cases, they are by design.

So what does that consumer have? He must have some recourse by which to have an ability to stop the foreclosure on his home. That victim has to hire